

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

FEDERAL TRADE COMMISSION and  
THE PEOPLE OF THE STATE OF NEW  
YORK, by LETITIA JAMES, Attorney  
General of the State of New York,

Plaintiffs,

v.

QUINCY BIOSCIENCE HOLDING  
COMPANY, INC., a corporation;

QUINCY BIOSCIENCE, LLC, a limited  
liability company;

PREVAGEN, INC., a corporation  
d/b/a/ SUGAR RIVER SUPPLEMENTS;

QUINCY BIOSCIENCE  
MANUFACTURING, LLC, a limited  
liability company; and

MARK UNDERWOOD, individually and as  
an officer of QUINCY BIOSCIENCE  
HOLDING COMPANY, INC., QUINCY  
BIOSCIENCE, LLC, and PREVAGEN,  
INC.

Defendants.

Case No. 1:17-cv-00124-LLS

**NOTICE OF MOTION AND MOTION  
TO STRIKE AFFIRMATIVE  
DEFENSES PURSUANT TO  
FED. R. CIV. P. 12(f)**

**PLEASE TAKE NOTICE** that, upon the accompanying Memorandum of Law in Support of Plaintiffs' Motion to Strike, and all pleadings filed in this action, Plaintiffs the Federal Trade Commission and the People of the State of New York by Letitia James, Attorney General of the State of New York, hereby move this Court, on a date and time to be determined by the Court, for an order pursuant to Fed. R. Civ. P. 12(f) striking certain affirmative defenses raised in the August 7, 2019 Answers filed by Corporate Defendants Quincy Bioscience Holding Company, Inc. et al. (collectively "Quincy") and Individual Defendant Mark Underwood (Dkts. 73 and 74). Plaintiffs move specifically to strike Quincy's First, Second, Fifth, Sixth, Tenth,

Thirteenth, Fifteenth, and Seventeenth Affirmative Defenses and Underwood's corresponding First, Third, Sixth, Seventh, Tenth, and Fifteenth Affirmative Defenses and the Preamble to those defenses.

**PLEASE TAKE FURTHER NOTICE** that, on August 16, 2019, pursuant to Rule 2.A of the Rules of Individual Practices, Plaintiffs submitted a letter requesting a pre-motion conference on the proposed motion to strike and requested a stay of the August 28, 2019 deadline for filing the motion pending the outcome of that request (Dkt. 77). The Court granted the stay of the deadline on August 16, 2019 (Dkt. 78) and subsequently issued an Order on September 10, 2019 granting leave to file this Motion and the accompanying Memorandum of Law in Support of Plaintiffs' Motion to Strike (Dkt. 85).

Dated: September 16, 2019

FEDERAL TRADE COMMISSION

PEOPLE OF THE STATE OF NEW YORK  
BY LETITIA JAMES,  
Attorney General of the State of New York

By: /s/ Michelle Rusk  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 16<sup>th</sup> day of September, 2019, I have caused service of the foregoing Plaintiffs' Notice of Motion to Strike Affirmative Defenses and the accompanying Memorandum in Support of Motion to Strike to be made by electronic filing with the Clerk of the Court using the ECF system, which will send a Notice of Electronic Filing to all counsel of record.

Dated: September 16, 2019  
Washington, D.C.

/s/ Michelle Rusk  
Michelle Rusk